

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE FIFTEENTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

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WRIT PETITION NO: 8182 of 2005

Between:

B.Appa Rao, s/o late Rama Murthy,
Sai Task Force, 206-B, Ranga Prasad Residency, Near Pail Vihar, Huda Trade
Center, Sherilingampally, Ranga Reddy District.

.... PETITIONER

AND

The Assistant Provident Fund Commissioner,(Enforcement) and Authority under the
Employees Provident Fund and Miscellaneous Act, 1952) Sub-Accounts Office, 12-
1, Susheeram Complex, Patancheru-502 319,
Medak District, Andhra Pradesh.

...RESPONDENT

Petition under Article 226 of the constitution of India praying that in the
circumstances stated in the Affidavit filed herein the High Court will be pleased to
issue a writ, order or direction, more particularly one in the nature of WRIT OF
MANDAMUS declaring the action of the respondent in proceeding with the
proposed action to send the petitioner to civil prison pursuant to the proceedings
no.A.P./35507/SAO/PTC/ENF (Recy)/Rc.No.20/2001/2005 dated 10-1-2005 in
implementation of the exparte order under Section 7-A of the Act, though the
application filed under Section 7-A(4) of the Act, for setting aside the said exparte
order is pending, as arbitrary, illegal and in violation of the principles of natural
justice and consequently direct the respondent not to resort to recover the alleged
amount by coercive manners and to pass such other order or orders as this Hon'ble
Court deem fit and proper in the circumstances of the case.

Counsel for the Petitioner:MR.RAMA RAO GHANTA

Counsel for the Respondent: MR.B.NARASIMHA SARMA

The Court, at the stage of admission, made the following:

ORDER:

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Heard learned counsel for the petitioner and the learned Standing Counsel appearing for the respondent.

This writ petition is filed questioning the proceedings of the respondent-Assistant Provident Fund Commissioner, dated 10.01.2005 informing the petitioner that the Recovery Certificate dated 03.04.2001 issued under the provisions of the Employees Provident Fund and Miscellaneous Provisions Act, 1952 (for short "the Act") in respect of arrears for the period from January, 1999 to June, 2000 for a sum of Rs.1.33,036/- is proposed to be executed by arrest and calling upon the petitioner to show cause as to why he should not be committed to civil prison.

The petitioner does not dispute the fact that the Recovery Certificate was issued in pursuance of the order passed under Section 7-A of the Act dated 08.09.2000. However, it is alleged that the determination under Section 7-A of the Act was made without hearing him and therefore, he made an application to set aside the said exparte order and the same is still pending. It is contended that the impugned notice which was issued while the application made by him under Sub-section (4) of Section 7-A of the Act is still pending is unwarranted and unsustainable

Having heard the learned counsel for both parties and since admittedly the application made by the petitioner under Sub-section (4) of Section 7-A of the Act is still pending, I deem it appropriate to dispose of the writ petition with a direction to the respondent to dispose of the application filed by the petitioner under Section 7-A (4) of the Act, as expeditiously as possible, preferably within a period of four weeks from the date of receipt of this order. Pending disposal of the said application, no coercive steps shall be taken against the petitioner for recovery of the amounts due as per the determination made under Section 7-A of the Act subject to the condition that the petitioner deposits a sum of Rs.30,000/- (Rupees thirty thousands only) within a period of two weeks from today. However, such deposit shall be subject to

further orders that may be passed by the respondent in the application under Section 7-A (4) of the Act.

The writ petition is accordingly disposed of. No costs.

15.04.2005

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To
1) The Assistant Provident Fund Commissioner,(Enforcement)
and Authority under the Employees Provident Fund

and Miscellaneous Act, 1952) Sub-Accounts Office, 12-1,
Susheeram Complex, Patancheru-502 319,
Medak District, Andhra Pradesh.

2) 2 CD copies.